

## **REMARKS**

### **Procedural Matter:**

The Office Action still has not indicated whether or not it accepted the drawing amendments filed on March 12, 2009. *See* Office Action coversheet PTOL-326. **Applicant again requests that the Examiner consider and enter the drawing amendments filed on March 12, 2009**, and indicate their acceptance in the next communication from the Office.

### **Office Action and Claim Amendments:**

Claims 23-25, 27-31, and 33-44 are pending and under examination. Applicant has amended claims 23 and 28 to improve clarity. Support for the amendment may be found in the specification at, for example, p. 11, line 34 to p. 12, line 2, and p. 13, ll. 5-6 and ll. 16-17. Applicant respectfully traverses the rejection of claims 23-25, 27-31, and 33-44 under 35 U.S.C. § 103(a) as being unpatentable over “the instant application’s disclosed prior art” (“*Prior Art*”) in view of U.S. Patent App. Pub. No. 2002/0028678 (“*Ohmoto*”).

### **Rejection of Claims 23-25, 27-31, and 33-44 under 35 U.S.C. § 103(a):**

Applicant requests reconsideration and withdrawal of the rejection of claims 23-25, 27-31, and 33-44 under 35 U.S.C. § 103(a) as being unpatentable over *Prior Art* in view of *Ohmoto*.

The Office Action has not properly resolved the *Graham* factual inquiries, the proper resolution of which is the requirement for establishing a framework for an objective obviousness analysis. *See* M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In particular, the Office Action has not properly determined the scope and content of the prior art, nor has the Office Action properly ascertained the differences between the claimed invention and the prior art, at least because the Office

Action has not properly interpreted the prior art and considered both the invention and the prior art as a whole. See M.P.E.P. § 2141(II)(B).

Specifically, *Prior Art* does not disclose or suggest at least the following claim elements recited in claim 23 (claim 28 containing similar recitations):

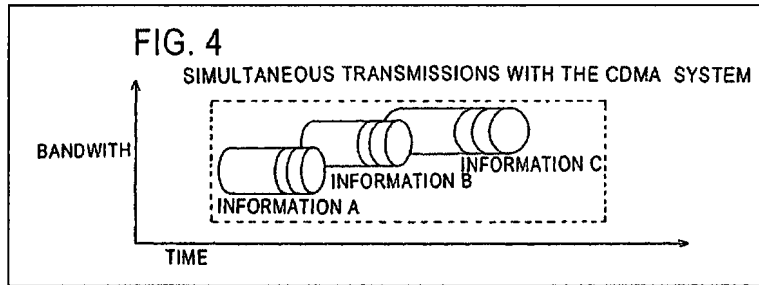
transmitting, during a same time interval, a first set ( $X_1, X_2, \dots X_N$ ) of non-zero first samples pertaining to a first terminal of said plurality by inserting said first samples in the respective position assigned to said first terminal, and a second set ( $X_{N+1}, X_{N+2}, \dots X_{2N}$ ) of non-zero second samples pertaining to a second terminal of said plurality by inserting said second samples in the respective position assigned to said second terminal. (emphases added)

In an Appeal Brief filed November 22, 2010, Applicant explained why *Prior Art* does not disclose or suggest “transmitting, simultaneously, a first set ( $X_1, X_2, \dots X_N$ ) of non-zero first samples ... and a second set ( $X_{N+1}, X_{N+2}, \dots X_{2N}$ ) of non-zero second samples ...” as recited in claim 23 and similar recitations in claim 28, and thus cannot render claims 23 and 28 obvious. The Office Action admitted that “Applicant’s request for reconsideration of the finality of the rejection of the last Office action is persuasive.” Office Action, p. 2 (emphasis added). However, the Office Action then alleged that *Ohmoto* cures the deficiencies of *Prior Art*, referring to paragraph [0047] of *Ohmoto* for support. See Office Action, p. 3.

*Ohmoto* does not cure the deficiencies of *Prior Art*, at least because it does not disclose or suggest transmitting two sets of samples “during a same time interval,” as recited in amended claims 23 and 28.

Specifically, the object of *Ohmoto* is to provide a “transmission of identical information to a plurality of mobile wireless terminals.” *Ohmoto*, par. [0012]. Although *Ohmoto* appears to teach transmitting multiple pieces of information using multiple broadcasting frequencies (see, e.g., *Ohmoto*, pars. [0046]-[0047]), *Ohmoto* nevertheless does not teach transmitting different pieces of information “during a same time interval,” as recited in claim 23. In fact, FIG. 4 of

*Ohmoto* explicitly shows transmission of different pieces of information during different time intervals. As shown in FIG. 4 of *Ohmoto*, reproduced below, information A is transmitted first, then information B, and finally information C:



Incidentally, although *Ohmoto* teaches “simultaneous transmission of information” (Abstract), this does not refer to simultaneous transmission of two different pieces of information. Rather, it refers to “simultaneous transmission of identical information to a plurality of mobile wireless terminals.” *Ohmoto*, par. [0012]. Such a transmission taught by *Ohmoto* is merely a specific type of “broadcasting” method, which is “referred to as ‘TCH broadcasting’” in *Ohmoto*. *Ohmoto*, par. [0031].

In view of the above, *Ohmoto* also fails to teach or suggest “transmitting, during a same time interval, a first set ( $X_1, X_2, \dots X_N$ ) of non-zero first samples [via] a first terminal . . . and a second set ( $X_{N+1}, X_{N+2}, \dots X_{2N}$ ) of non-zero second samples [via] a second terminal,” as recited in claim 23 (emphases added), and thus does not compensate for the deficiencies of *Prior Art*.

Thus, the Office Action has neither properly determined the scope and content of the prior art, nor properly ascertained the differences between the prior art and the claimed invention. Moreover, one of ordinary skill in the art would not have modified *Prior Art* based on the teachings of *Ohmoto*. As already noted in previous responses, *Prior Art* teaches that “[c]urrent WLAN standards . . . provide for all the stations located in a certain access area being connected by sharing only one channel at a time” (specification, p. 1, ll. 28-31, emphases added),

which thus requires “staggering [transmission of data from various local stations] over time by causing transmission from or to each single local station to take place within a given time interval” (specification, p. 9, l. 31 - p. 10, l. 2, emphases added). That is, the standards in *Prior Art* actually “teach away” from an idea of using multiple channels to transmit different data, such as one taught in *Ohmoto*.

Independent claim 23 is not obvious over *Prior Art* and *Ohmoto*, and should therefore be allowable. Independent claim 28, while different in scope, contains similar recitations as independent claim 23, and should also be allowable for the same reason as independent claim 23. In addition, dependent claims 24, 25, 27, 29-31, and 33-44 should be allowable at least by virtue of their respective dependence from independent claim 23 or 28, and because they recite additional features not taught or suggested by *Prior Art* and *Ohmoto*. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection.

**Conclusion:**

Applicant requests reconsideration of the application and withdrawal of the rejections. Pending claims 23-25, 27-31, and 33-44 are in condition for allowance, and Applicant requests a favorable action.

The Office Action contains statements characterizing the cited references and the claims. Regardless of whether any such statements are specifically identified herein, Applicant declines to automatically subscribe to any statements in the Office Action.

If there are any remaining issues or misunderstandings, Applicant requests the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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